

**AURELIO CABIGON, LORLIE N. ALESNA, MELANIE ALESNA,
SOLOMON G. RIGONAN, LOLITA ARTEZUELA, EFREN GOCOTANO,
ERLINDA ABAR, ALICA VENTURES, JUSTINIANO B. MENDEZ,
EDELISA CODILLA, ROL...**

G.R. No. 168030. December 19, 2007

Ponente: CORONA, J.

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CORONA, J.:

This petition for review on certiorari[3] seeks to set aside the decision[4] of the Court of Appeals (CA) in CA-G.R. CV No. 60137 and its resolution denying reconsideration.[5]

This case involves actions filed against respondent Pepsi-Cola Products Philippines, Inc. in connection with its 1992 "number fever promo." Petitioners, holders of non-winning 349 crowns,[6] filed complaints for sum of money and damages,[7] as well as specific performance and damages,[8] against respondent in the Regional Trial Court (RTC), Branch 7, Cebu City. They similarly alleged that respondent, by changing the winning combination and refusing to pay their prizes,[9] was guilty of gross negligence or fraud in dealing with its customers.[10]

The RTC found that respondent caused "pain and suffering, mental anguish, broken dreams or hopes, serious anxiety, wounded feelings, moral shock, embarrassment and humiliation to its long-time patrons." [11] Thus, on December 15, 1997, it rendered a consolidated decision in favor of petitioners:[12]

Wherefore, judgment is hereby rendered in favor of [petitioners] and against [respondent] Pepsi Cola Products, Philippines, Inc. ordering said [respondent]:

- To pay each [petitioner] (not for each "349" crown) in these two (2) civil cases the amount of twenty thousand pesos (P20,000) by way of moral damages; and
- To pay each [petitioner] the amount of ten thousand (P10,000) by way of exemplary damages; and
- If the amount of prize money stated in a [petitioner's] crown is less than P30,000, then such [petitioner] shall be entitled to payment of not more than the exact amount so stated in his "349" crown, but if the amount stated in the "349" crown exceeds P30,000, then such [petitioner] shall be entitled only to the total herein ordered, which is P30,000 representing both moral and exemplary damages.

SO ORDERED.[13]

Aggrieved, respondent appealed[14] to the CA.

In the assailed decision, the appellate court found that the confusion with regard to the winning and non-winning 349 crowns arose because respondent decided to extend the promo period. It explained:

There were three types of crowns for both the original and extension period of the [promo] — the winning, the non-winning and the unused crowns — with numbers from 000 to 999 and with appropriate security codes.

The number 349 bearing security code L-2560-FQ was used during the original promo period in non-winning crowns. For the extended promo period, the number 349 was inadvertently chosen as a winning number but the security code for these crowns were security codes for the extended period, not the L-2560-FQ used in the original promo period. The problem arose because the original 349 with L-2560-FQ was still in circulation during the extended promo period and were crowns picked out by the [petitioners] in the present case. It is on the basis of undisputed facts that we conclude that 349 crowns with security code L-2560-FQ were never winning crowns and were never intended to be so.[15]

Nevertheless, respondent did not fail to emphasize the importance of the alpha-numeric security code in its promotional materials.[16] It clearly stated that the code, printed on each crown, was its only means to verify the genuineness of the winning crown.[17] Thus, it was not negligent in the conduct of its promo.

Accordingly, the CA granted respondent's petition and reversed the December 15, 1997 RTC decision.[18] Because petitioners raised an identical cause of action and issue, and presented evidence similar to those in previous 349 number fever cases, the appellate court dismissed the petition pursuant to its decision in the cases of Rodrigo[19] and Mendoza.[20]

Petitioners moved for reconsideration[21] but their motion was denied.[22] Hence, this petition.

We deny the petition.

Over the past years, we have promulgated a number of cases[23] involving the 349 number fever promo. Thus, we are bound by our pronouncement in those cases.

The principle of stare decisis et non quieta movere holds that a point of law, once established by the court, will generally be followed by the same court and by all courts of lower rank in subsequent cases involving a similar legal issue.[24] This proceeds from the legal principle that, in the absence of powerful countervailing considerations, like cases ought to be decided alike.[25]

We have consistently held (in previous 349 number fever promo cases) that the correct security code was an indispensable requirement to be entitled to the cash prize concerned.[26] Here, petitioners held 349 crowns bearing either security code L-2560-FQ or L-3560-FQ. These, however, were not the security codes for the 349 crowns issued during the extended period of the promo. Thus, petitioners were never entitled to any prize.

WHEREFORE, this petition is hereby DENIED. The February 24, 2004 decision and March 21, 2005 resolution of the Court of Appeals in CA-G.R. CV No. 60137 are hereby AFFIRMED.

Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Also referred to as Belinda Rastimo.

[2] Also referred to as Beatriz Beano.

[3] Under Rule 45 of the Rules of Court.

[4] Penned by Associate Justice Arturo D. Brion (now Secretary of Labor) and concurred in by Associate Justices Salvador J. Valdez, Jr. (retired) and Josefina Guevara-Salonga. Dated February 24, 2004. Rollo, pp. 65-100.

[5] Penned by Associate Justice Arturo D. Brion (now Secretary of Labor) and concurred in by Associate Justices

Salvador J. Valdez, Jr. (retired) and Josefina Guevara-Salonga. Dated March 21, 2005. Id., pp. 107-108.

[6] Refer to those 349 crowns which contained non-winning security codes L-2560-FQ and L-3560-FQ.

[7] Docketed as Civil Case No. CEB-11758. Rollo, p. 41.

[8] Docketed as Civil Case No. CEB-12609. Id.

[9] Id., p. 45.

[10] Id.

[11] Id., pp. 52-53.

[12] Penned by Judge Martin A. Ocampo. Id., pp. 41-54.

[13] Id., pp. 53-54.

[14] Under Rule 41 of the Rules of Court.

[15] Rollo, pp. 91-92.

[16] Id., p. 93.

[17] Id.

[18] Supra note 12.

[19] Then docketed as CA-G.R. CV No. 62837. The case was elevated to this Court via a petition for review on certiorari under Rule 45 of the Rules of Court. The petition was docketed as G.R. No. 149411 and entitled *Rodrigo v. Pepsi-Cola Products, Philippines, Inc.* On October 1, 2001, the petition was denied because the Court found no reversible error in the CA decision. Rollo, pp. 89-90, 128-129.

[20] Then docketed as CA-G.R. CV No. 53860. The case was later elevated to this Court via a petition for review on certiorari under Rule 45 of the Rules of Court. The petition was docketed as G.R. No. 153103 and entitled *Mendoza v. Pepsi-Cola Products, Philippines, Inc.* On July 24, 2002, the petition was denied because the Court found no reversible error in the CA decision. Id.

[21] Id., pp. 102-105.

[22] Supra note 5.

[23] See *Pepsi Cola Products Philippines, Inc. v. Patan*, G.R. No. 152927, 14 January 2004, 419 SCRA 417; *de Mesa v. Pepsi Cola Products Philippines, Inc.*, G.R. Nos. 153063-70, 19 August 2005, 467 SCRA 433; *Pepsi Cola Products Philippines, Inc. v. Lacanilao*, G.R. No. 146007 and No. 146295, 15 June 2006, 490 SCRA 615; *Pepsi Cola Products Philippines, Inc. v. Pagdanganan*, G.R. No. 167866, 16 October 2006, 504 SCRA 549.

[24] *Garcia v. JG Summit Petrochemical Corporation*, G.R. No. 129925, 23 February 2007.

[25] Id.

[26] *Pepsi Cola Products Philippines, Inc. v. Pagdanganan*, supra note 23 at 562-563.

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